

REMARKS

Reconsideration and allowance of the subject application are requested.

Claims 52-56, 58-59, 62, 63, 75-80, and 113-117 stand rejected based on 35 U.S.C. Section 102(a):

as having been in use or on sale *at least one year prior to applicant's filing date* of 26 November 2003, as evidenced by Brown, Just How Used is That Used Car? The Washington Post, 18, August 1997 and Meredith Little, Buing and selling a car online, Mac@Home Louisville: Sep 1999 . . . (Emphasis supplied)

See Page 5 of the Office Action

This rejection is flawed for several reasons. First, Section 102(a) is based on the *date of invention*, not applicant's filing date. In particular, Section 102(a) prohibits patentability if “the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, *before the invention thereof* by the applicant for patent.” Emphasis supplied. Section 102(b) relates to applicants filing date and the one year grace period. Therefore, Applicant will assume that the Examiner intended to make this rejection based on 35 U.S.C. Section 102(b). However, since the rejection is based on printed publications, the rejection does not support an “on sale bar”. Also, the rejection is based on two separate publications describing two separate systems. Brown describes applicants original Carfax system while Little describes Autobytel, Microsoft CarPoint, CarBuyer, and AutoVantage. Since the rejection is based on two references, use of 35 U.S.C. Section 102 is improper and thus the rejection should be withdrawn.

However, for the sake of prosecution expediency, Applicant will address the rejection as if it was made based on 35 U.S.C. Section 103. Initially, applicant notes that independent claims 52, 75, and 113 have been amended to recite the invention more clearly. For example, the amended claims recite that the price adjustment value

is quantifiable and for a particular vehicle, that the vehicle history attributes indicate prior events in the use of the particular vehicle, and that the transaction record includes a transaction price.

The invention, as recited in the amended claims utilizes the price of transactions of a vehicle and a plurality of vehicle history attributes, indicating prior events in the use of a particular vehicle, to calculate a single price adjustment value for the particular vehicle. In conventional pricing methods, such as those disclosed by Brown and Little, used car pricing was driven by the make and model of a vehicle generally. Adjustment of the price could be made by taking into account current status of the vehicle, such as the current mileage and/or the current condition of the car. However, the conventional methods were imprecise because they did not take into account prior events in the use of the vehicle, such as deployment of the airbag, major accidents, and the like.

The invention achieves a more precise value for a particular vehicle by taking into account historical purchase prices of the vehicle and prior events for that particular vehicle. Neither Brown nor Little teach or suggest these features or the advantages associated therewith. Accordingly, the rejection should be withdrawn. The remaining claims are allowable at least by virtue of their dependence from one of independent claims 52, 75, and 113.

Claims 58-60, 62-74, 77 and 92 relate to determining whether a buyer had knowledge of historical vehicle attributes at the time of a purchase transaction and how to classify and process transaction records based on the knowledge. The Examiner cites paragraph 20 of Brown as disclosing the step of determining whether a buyer had knowledge of vehicle history attributes that time of a sale transaction. However, this portion of the reference merely discloses that buyers don't always know the current mileage of a vehicle when they purchase it. This does not teach the need for and advantages of determining whether a buyer had knowledge of historical attributes at the time of sale to determine how to use the sales transaction record in

calculating a price adjustment. In fact, this portion of the reference underscores the problem of imprecision associated with the prior art.

For all of the reasons set forth above, the rejections should be withdrawn and all of the pending claims allowed. Notice of Allowance is solicited.

Respectfully submitted,

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